

RULE 63 (37 CFR 1.63)  
DECLARATION  
FOR PATENT APPLICATION  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe that, together with Mark Hampden-Smith, James Caruso, Quint H. Powell, Daniel J. Skamser and Clive D. Chandler, I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "GOLD POWDERS, METHODS FOR PRODUCING POWDERS AND DEVICES FABRICATED FROM SAME", the specification of which has been prepared and filed on February 24, 1998, receiving Serial No. 09/028,901, and further identified as Attorney File No. NAN-004-4.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability in accordance with 37 CFR 1.56(a) and (b) as set forth on the attached sheet indicated Page 3 hereof and which I have read.

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<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status: patented, pending, abandoned</u>
60/038,258	2/24/97	Provisional
60/039,450	2/24/97	Provisional

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Inventor's Signature

Mark T. Hymel-Smith

Date 3-27-98

Mark J. Hampden-Smith

## Britain

2901 Maximillian NW  
Albuquerque, NM 87131

Same as Residence

\*Complete Post Office Address in full if different from Residence, otherwise indicate that the Post Office Address is "Same as Residence."

**Table 1**

37 CFR §1.56(a) and (b)  
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1)

Inventor's Signature

Daniel J. Skamser

Date

3/24/98

Inventor's Name (typed):

Daniel J. Skamser

Citizenship:

U.S.A.

Residence:

10327 Hackamore Place SW  
Albuquerque, NM 87121

Post Office Address\*:

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*Christa H. Hensley*

Inventor's Name (typed): Quint H. Powell

Citizenship: U.S.A.

Residence: 14336 Grand Avenue NE  
Albuquerque, NM 87123

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DUTY TO DISCLOSE INFORMATION MATERIAL  
TO PATENTABILITY

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application,

and  
(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of a patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.\*

\*Note, 37 CFR §1.97(h) states: "The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56(b)."